

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KENNETH ALLEN NEIGHBORS,

Plaintiff,

No. CIV S-05-0710 GEB PAN P

vs.

HOLTORF, et al.,

Defendants.

FINDINGS & RECOMMENDATIONS

By order filed August 31, 2005, plaintiff's complaint was dismissed and thirty days leave to file an amended complaint was granted. After reconsideration, that order was affirmed, and after plaintiff took an interlocutory appeal, the Court of Appeals for the Ninth Circuit dismissed plaintiff's appeal for lack of jurisdiction on January 9, 2006. Forty-five days from that date have now passed, and plaintiff has not filed an amended complaint or otherwise responded to the court's order.

Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice. See Local Rule 11-110; Fed. R. Civ. P. 41(b).

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty days after being served with these findings and recommendations, plaintiff may file written

1 objections with the court. The document should be captioned "Objections to Magistrate Judge's
2 Findings and Recommendations." Plaintiff is advised that failure to file objections within the
3 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951
4 F.2d 1153 (9th Cir. 1991).

5 DATED: February 27, 2006.

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8 UNITED STATES MAGISTRATE JUDGE

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